

1 EDMUND G. BROWN JR.
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 JUDITH J. LOACH
Deputy Attorney General
4 State Bar No. 162030
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-5604
6 Facsimile: (415) 703-5480
E-mail: Judith.Loach@doj.ca.gov
7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2010-605

13 **RENATO LAGIDAO BALITIAN**
424 Arlington Street
14 San Francisco, CA 94131
Registered Nurse License No. 623653

ACCUSATION

15 Respondent.

16
17 Complainant alleges:

18 PARTIES

19 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her
20 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
21 of Consumer Affairs.

22 2. On or about August 8, 2003, the Board of Registered Nursing issued Registered
23 Nurse License Number 623653 to Renato Lagidao Balitian ("Respondent"). The Registered
24 Nurse License was in full force and effect at all times relevant to the charges brought herein and
25 will expire on October 31, 2010, unless renewed.

26 //

27 //

28 //

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8

[illegible]

5
6
7
8
9
0
1
2
3
4
5
6
7
8
9
0
1
2
3

9
0
1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8
9

2
3
4
5
6
7
8
9
20
21
22
23
24
25
26
27
28

3
4
5
6
7
8
9
20
21
22
23
24
25
26
27
28

4
5
6
7
8
9
20
21
22
23
24
25
26
27
28

6
7
8
9
20
21
22
23
24
25
26
27
28

27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97
98
99
100
101
102
103
104
105
106
107
108
109
110
111
112
113
114
115
116
117
118
119
120
121
122
123
124
125
126
127
128
129
130
131
132
133
134
135
136
137
138
139
140
141
142
143
144
145
146
147
148
149
150
151
152
153
154
155
156
157
158
159
160
161
162
163
164
165
166
167
168
169
170
171
172
173
174
175
176
177
178
179
180
181
182
183
184
185
186
187
188
189
190
191
192
193
194
195
196
197
198
199
200
201
202
203
204
205
206
207
208
209
210
211
212
213
214
215
216
217
218
219
220
221
222
223
224
225
226
227
228
229
230
231
232
233
234
235
236
237
238
239
240
241
242
243
244
245
246
247
248
249
250
251
252
253
254
255
256
257
258
259
260
261
262
263
264
265
266
267
268
269
270
271
272
273
274
275
276
277
278
279
280
281
282
283
284
285
286
287
288
289
290
291
292
293
294
295
296
297
298
299
300
301
302
303
304
305
306
307
308
309
310
311
312
313
314
315
316
317
318
319
320
321
322
323
324
325
326
327
328
329
330
331
332
333
334
335
336
337
338
339
340
341
342
343
344
345
346
347
348
349
350
351
352
353
354
355
356
357
358
359
360
361
362
363
364
365
366
367
368
369
370
371
372
373
374
375
376
377
378
379
380
381
382
383
384
385
386
387
388
389
390
391
392
393
394
395
396
397
398
399
400
401
402
403
404
405
406
407
408
409
410
411
412
413
414
415
416
417
418
419
420
421
422
423
424
425
426
427
428
429
430
431
432
433
434
435
436
437
438
439
440
441
442
443
444
445
446
447
448
449
450
451
452
453
454
455
456
457
458
459
460
461
462
463
464
465
466
467
468
469
470
471
472
473
474
475
476
477
478
479
480
481
482
483
484
485
486
487
488
489
490
491
492
493
494
495
496
497
498
499
500
501
502
503
504
505
506
507
508
509
510
511
512
513
514
515
516
517
518
519
520
521
522
523
524
525
526
527
528
529
530
531
532
533
534
535
536
537
538
539
540
541
542
543
544
545
546
547
548
549
550
551
552
553
554
555
556
557
558
559
560
561
562
563
564
565
566
567
568
569
570
571
572
573
574
575
576
577
578
579
580
581
582
583
584
585
586
587
588
589
590
591
592
593
594
595
596
597
598
599
600
601
602
603
604
605
606
607
608
609
610
611
612
613
614
615
616
617
618
619
620
621
622
623
624
625
626
627
628
629
630
631
632
633
634
635
636
637
638
639
640
641
642
643
644
645
646
647
648
649
650
651
652
653
654
655
656
657
658
659
660
661
662
663
664
665
666
667
668
669
670
671
672
673
674
675
676
677
678
679
680
681
682
683
684
685
686
687
688
689
690
691
692
693
694
695
696
697
698
699
700
701
702
703
704
705
706
707
708
709
710
711
712
713
714
715
716
717
718
719
720
721
722
723
724
725
726
727
728
729
730
731
732
733
734
735
736
737
738
739
740
741
742
743
744
745
746
747
748
749
750
751
752
753
754
755
756
757
758
759
760
761
762
763
764
765
766
767
768
769
770
771
772
773
774
775
776
777
778
779
780
781
782
783
784
785
786
787
788
789
790
791
792
793
794
795
796
797
798
799
800
801
802
803
804
805
806
807
808
809
810
811
812
813
814
815
816
817
818
819
820
821
822
823
824
825
826
827
828
829
830
831
832
833
834
835
836
837
838
839
840
841
842
843
844
845
846
847
848
849
850
851
852
853
854
855
856
857
858
859
86

20
21
22
23
24
25
26
27
28

20
21
22
23
24
25
26
27
28

21
22
23
24
25
26
27
28

27
28

28

1 8. California Code of Regulations, title 16, section 1443, states:

2 "As used in Section 2761 of the code, 'incompetence' means the lack of possession of or the
3 failure to exercise that degree of learning, skill, care and experience ordinarily possessed and
4 exercised by a competent registered nurse as described in Section 1443.5."

5 COST RECOVERY

6 9. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
7 administrative law judge to direct a licensee found to have committed a violation or violations of
8 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
9 enforcement of the case.

10 STATEMENT OF RELEVANT FACTS

11 10. On September 8, 2008, patient N.Y.¹ was admitted to San Francisco General
12 Hospital Medical Center ("SFGH"), in San Francisco. She had a large pelvic tumor consistent
13 with ovarian cancer and had been recently diagnosed with colon cancer.

14 11. Surgery began at 1:40 p.m. on September 8, 2008. N.Y. underwent a total abdominal
15 hysterectomy with removal of her fallopian tubes, ovaries and a large portion of her intestinal
16 tract. N.Y.'s surgery was complicated by a massive intraoperative hemorrhage. Surgery was
17 concluded at 10:05 p.m., lasting 8 hours and 25 minutes.

18 12. Respondent at all relevant times was employed as a registered nurse at SFGH. On
19 September 8, 2008, he was assigned as the circulating nurse in the operating room for N.Y.
20 Respondent entered the operating room at 9:34 p.m., and remained the circulating nurse when
21 N.Y. left the operating room at 10:05 p.m.

22 13. Respondent recorded that at the time the surgeons began closing and prior to the
23 completion of the closing, that he and the scrub nurse had affirmed that the counts were correct
24 for all "SHARPS/NEEDLES/SPONGES AND INSTRUMENTS." One of the types of surgical
25 sponges used during N.Y.'s operation is known as a "lap sponge" that has a radiopaque tag such
26 that if retained, it can be identified by x-ray.

27 ¹ Patient initials are used to protect the patient's privacy. Full names will be disclosed to
28 Respondent pursuant to a request for discovery.

1 14. N.Y. returned to SFGH on December 12, 2008, complaining of a foul smelling
2 vaginal discharge. A pelvic examination revealed the presence of a foreign body adhering to her
3 wall of her vagina. It was removed and sent to pathology for identification. The removed object
4 was identified to be a retained Raytex 4 x 8 inch sponge.

5 FIRST CAUSE FOR DISCIPLINE

6 (Gross Negligence – Incorrect Sponge Count)

7 15. Respondent is subject to disciplinary action for gross negligence under section Code
8 section 2761, subdivision (a)(1) in that he failed to accurately complete the final lap sponge
9 count, did not identify the loss of a lap sponge and failed to notify the surgeons of the incorrect
10 sponge count as set forth in paragraphs 10 through 14, above. Respondent's gross negligence
11 subjected patient N.Y. to pain, discomfort and with risks attendant in having a retained lap sponge
12 as set forth in paragraphs 10 through 14, above.

13 SECOND CAUSE FOR DISCIPLINE

14 (Incompetence – Incorrect Sponge Count)

15 16. Respondent is subject to disciplinary action for incompetence under section Code
16 section 2761, subdivision (a)(1) in that he failed to accurately complete the final lap sponge
17 count, did not identify the loss of a lap sponge and failed to notify the attending surgeon of the
18 incorrect sponge count as set forth in paragraphs 10 through 14, above.

19 PRAYER

20 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
21 and that following the hearing, the Board of Registered Nursing issue a decision:

22 1. Revoking or suspending Registered Nurse License Number 623653, issued to Renato
23 Lagidao Balitian.

24 2. Ordering Renato Lagidao Balitian to pay the Board of Registered Nursing the
25 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
26 Professions Code section 125.3.

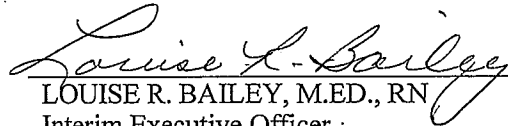
27 //

28 //

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

3. Taking such other and further action as deemed necessary and proper.

DATED: 5/25/10


LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

SF2010200718
20276911.doc